

# HOUSE OF REPRESENTATIVES.

Tuesday, Dec 22,

On motion of Mr. Eneyart, the House resumed the consideration of the "expunging" resolutions.

Mr. Creed moved to add a resolution appropriating so much of the President's late annual message as relates to our affairs with France—rejected, yeas 22, nays 48.

Mr. Ford moved to add a resolution declaring "that the people are the people, and to them alone belongs the right of instruction."

Mr. Walton moved to strike out the last clause of this proposition, namely, "to them belongs the right of instruction."

The yeas and nays being called for on Mr. Walton's motion, he withdrew it, with leave of the House.

Mr. Ford's amendment was then rejected—yeas 20, nays 50.

Mr. Allen then moved to strike out the resolution which requests the Governor to transmit a copy to the Hon Thomas H. Benton lost—yeas 24, nays 46.

The question then turning on agreeing to the original resolutions, a division was called for, and first resolution was put to vote. It reads as follows:

*Resolved, by the General Assembly of the State of Ohio, That the said resolution of the Senate, and the action had by that body, were without precedent, gross, "assumptions of power not conferred by the constitution and laws," but in violation of the spirit of both.*

This resolution was agreed to by the following vote.

YEAS.—Messrs. Armstrong, Ankeny, Baldwin Blackburn of Columbiana Blackburn, of Stark, Brown, Butler, Chambers, Creswell, Conklin of Hamilton, Conklin of Morgan, Cutright, Coulter, De Wolf, Eneyart, Faran, Gamble, Harlan, Hathaway, Hoshbrook, Hough, Hubbard, Humphreys, Lowry, Lyman, Medill, McMeel, Miller of Wayne, Patterson, Porter Quinn Read, Robbins, Saylor, Sprague, Stableton, Smith, Stidger, Uiter, Van Hook, Welton, Winship, Whitmore, Yontz, and Speaker—46.

NAYS.—Messrs. Allen, Bently, Boswick, Champlin, Creed, Cushing, Ford, Godman, Holcomb, Hunt, Knapp, Lutz, Matthews, McDonald, Miller of Lawrence, Mitchell, Moore of Delaware, Moore of Muskingum, Morrow, Morris, Reese, Robinson, Silvers, and Taylor of Mercer—24.

The question then turning on agreeing to the second resolution, the House was successively addressed by Messrs. Welton, Smith, Saylor, and Harlan, in favor of it; and by Messrs. Allen, Boswick, Cushing, Creed, and Ford, in opposition. The discussion lasted till the House adjourned, which laid the whole subject on the table.

## EXPUNGING RESOLUTIONS.

On motion of Mr. Harlan, the House again resumed the consideration of the "expunging" resolutions—the question pending being agreeing to the second resolution, which instructs and requires our Senators to vote for expunging the obnoxious resolutions from the journals of the Senate.

Mr. Cushing addressed the House, at considerable length against the resolution, and discussed, with ability, the right of the Legislature to instruct, contending that it was a right the people had never delegated, and consequently could not exist in the Legislature.

Mr. Allen made a few remarks on the same side of the question.

Mr. Hubbard followed on the other side confining his arguments chiefly to showing that the right of instruction had been acknowledged and exercised by the Legislature ever since the adoption of the constitution of the State.

Mr. Baldwin next addressed the House in a few remarks in favor of the resolution. He was followed by

Mr. Morrow, who made a few remarks. He denied that there was any precedent on record, which would support the Legislature in passing these resolutions. The Legislature of Ohio had never yet used the language of command or injunction in instructing Senators in Congress. This resolution reads, "required." It was without precedent.

Mr. Faran addressed the House next, in support of this resolution.

Mr. Boswick followed. He had but little to say in addition to the remarks made by him yesterday. He wished, however, to renew an inquiry which he then made, but which the gentleman from Clinton, (Mr. Harlan), which introduced these resolutions, seemed to have overlooked in his speech last evening.—He would again demand of the friends of these resolutions, and particularly of that gentleman, "Where does this Legislature derive the right to regulate the journal of the Senate of the United States, and to direct how it shall be kept, and to say what shall stand as a part of that journal, and what shall not?"

Mr. Allen again made a few remarks, principally in reply to observations that had fallen from another member in reference to himself.

He was followed by Mr. Humphreys, who supported the resolutions in a short speech.

Mr. Creed next addressed the House at considerable length in opposition to the resolutions, and in an able vindication of his former course; a sketch cannot for the present be attempted.

Mr. Harlan closed the debate in a speech of about an hour's length, in defence of the resolutions, and in reply to those who had preceded him.

The question was then taken on agreeing to the second resolution which reads as follows, viz:

2. *Resolved, That the Senators representing in Congress this State be and are hereby instructed and required to vote for the expunging of the resolution aforesaid, from the journals of the Senate.*

And the same was adopted by a vote similar to that on the first resolution, except that Mr. Craighill, who was absent, when the first resolution was passed, was present now and voted in the affirmative; and Mr. Winship, who voted for the first resolution was absent when the vote was taken on this.

The question then being on agreeing to the third resolution: which reads as follows, viz:

3. *Resolved, That we believe the right of instruction one of the fundamental principles of a representative government and essentially necessary to the purity and stability of our republican institutions; and that in case the agents of the people are unable to obey the instructions of their respective constituents, it is their solemn duty, to resign the power intrusted them into the hands of those who gave it.*

Mr. Morris moved to amend it by adding a proviso declaring that nothing in the resolutions should be so construed as to prevent the Hon. Thomas Ewing from appearing, at any future day, on the floor of this House in his own defence, or from entering on the journals of this body his protest against these resolutions.

Mr. Cushing suggested that the amendment be modified so as to include the name of the Hon Thomas Morris, for it was by no means certain that he would submit to what had been done, to day.

The modification was accepted by the mover of the amendment, and the amendment was then put to vote and rejected—yeas 22, nays 48.

The third resolution was then agreed to, the only difference between the votes on it and of the second, being, that Messrs. Bently, Boswick, Godman Hunt Moore of Muskingum, Morris and Robinson, who voted against the second resolution, voted for this, making it—yeas 17 nays 53.

The fourth resolution (which requests the Governor to transmit copies to our Senators in Congress, and to the President and Vice President of the United States,) was agreed to without a division.

The question being now on agreeing to the fifth (and last) resolution, it was read as follows:

5. *Resolved, That in consideration of the distinguished relation in which the Hon. Thomas H. Benton, one of the Senators in Congress from the State of Missouri, stands to the subject of the foregoing resolutions, the Governor of this State be also requested to transmit a copy of these resolutions to that Senator.*

And the question on agreeing to it was decided in the affirmative, by the same vote as on the second resolution—except that Mr. Chambers, who voted for that resolution, voted against this.

The question being now on agreeing to the preamble, Mr. Creed moved to strike it out and insert different and new matter in lieu; but a division being called for the House refused to strike out—24 to 47—and the preamble was then agreed to—yeas 47, nays 24.

Mr. Cushing gave notice that leave would be asked to enter a protest on the journal.

## SENATE.

Thursday, Dec. 24.

### EXPUNGING RESOLUTIONS.

The "Expunging Resolutions," from the House were then taken up—

Mr. Newell said if it was the intention of the friends of those resolutions, to pass them, it was his wish that as little time as possible, should be wasted in the disposal of them, he would therefore move that they be made the special order for Monday next.

Mr. Patterson said it was not his desire to hurry the action upon, or to give any cause of complaint to those who were opposed to them. It was his wish, as the subject which they embraced was an important one, that it should have due consideration, and he would prefer that they go through the usual course with the other business.

Mr. Newell said he had no objection: he was not tenacious on the subject, and he would withdraw his motion.

The resolutions were then made the general order of the day.

### TWENTY-FOURTH CONGRESS.

#### FIRST SESSION.

#### IN SENATE.

Monday, Dec. 21, 1835.

### NORTHERN BOUNDARY OF OHIO.

Mr. Ewing, pursuant to notice, rose to ask leave to introduce a bill to define and settle the northern boundary line of the State of Ohio.

Leave being granted, Mr. Ewing introduced the bill, which was read and ordered to a second reading.

Mr. Ewing moved the second reading of the bill, which was objected to by Mr. Morris.

Mr. Morris then offered the following resolution.

Whereas it is provided in the sixth section of the seventh article of the Constitution of the State of Ohio as follows: That the limits and boundaries of this State be ascertained, it is declared that they are as hereafter mentioned, that is to say, on the east by the Pennsylvania line, and on the south by the Ohio river to the mouth of the Great Miami river, on the west

by a line drawn due north from the mouth of the Great Miami river aforesaid, on the north by the east and west line drawn through the southerly extreme of Lake Michigan running east after intersecting the due north line aforesaid, from the mouth of the Great Miami river until it shall intersect Lake Erie on the Territorial line, & thence with the same through Lake Erie to the Pennsylvania line aforesaid: Provided always, and it is hereby fully understood and declared by the convention that if the southerly bound or extreme of Lake Michigan should extend so far south that a line drawn due east from it should not intersect Lake Erie, or if it should intersect said Lake Erie, east of the mouth of the Miami River of the Lake then and in that case, with the assent of Congress of the United States, the northern boundary of Ohio State shall be established by and extend to a line running from the southerly extreme of Lake Michigan to the most northerly Cape of the Miami bay, after intersecting the due north line from the mouth of the Great Miami river aforesaid, thence north east to the territorial line, and by the said territorial line to the Pennsylvania line: And whereas the State of Ohio claims that the assent of the Congress of the United States has been virtually and substantially given to the sixth section of the seventh article of the constitution as above set forth, and more especially to the latter clause thereof; describing her northern boundary as contained in the proviso to said section, by admitting her Senators and Representatives to their seats in Congress and more fully by the act of Congress as declared February 19, 1803, entitled an act to provide for the due execution of the laws of the United States within the State of Ohio, in the preamble to which act it is declared, that the State of Ohio has become one of the United States of America; where by as a matter of right the said State has acquired and can rightfully exercise jurisdiction on her northern border to the line as described in the latter clause of the proviso contained in the sixth section of the seventh article of her constitution: but as doubts have arisen whether the act of Congress of the 11th of January, 1805, entitled an act to divide the Indian Territory into two separate governments, does not contravene the rightful jurisdiction of Ohio to the line as described in the article of her constitution as above stated: In order, therefore, that doubts may no longer exist on this subject—

*Resolved by the Senate and House of Representatives of the United States in Congress assembled, That the assent of the Congress of the United States is hereby fully declared and given to the latter clause of the sixth section of the seventh article of the Constitution of the State of Ohio, which is in the following words; to wit: "The northern boundary of this State shall be established by and extend to a direct line running from the Southerly extreme of Lake Michigan to the most northerly Cape of the Miami Bay, after intersecting the due north from the mouth of the Great Miami aforesaid; thence northeast to the Territorial Line, and by said Territorial Line to the Pennsylvania Line."*

*And it is further resolved, That any State or States, that may be formed of the Territory of United States, lying east of the Mississippi river, which Congress may hereafter deem proper to admit into the Union, shall be bounded on the south by the States of Illinois, Indiana, and Ohio, as the law may require.*

The following is a copy of the bill introduced by Mr. Ewing: A Bill to settle and establish the Northern Boundary line of the State of Ohio.

*Be it enacted, &c. That the northern boundary of the State of Ohio shall be established by, and extend to, a direct line running from the Southern extremity of Lake Michigan to the most northerly cape of the Miami bay; thence, north east, to the northern boundary line of the United States; thence, with said line to the Pennsylvania line.*

*Sec. 2. And be it further enacted, That the boundary line surveyed marked, and designated agreeably to "An act to authorize the President of the United States to ascertain and designate the northern boundary of the State of Indiana, approved March the second, eighteen hundred and twenty-seven, shall be deemed and taken as the east and west line mentioned in the constitution of the State of Indiana, drawn through a point ten miles north of the southern extreme of Lake Michigan, and shall be and forever remain the northern boundary of said State.*

*Sec. 3. And be it further enacted, That the northern boundary line ascertained, surveyed, and marked, agreeably to a law of Congress entitled "An act to ascertain and mark the line between the State of Alabama and the Territory of Florida, and the northern boundary of the State of Illinois, and for other purposes," approved March second, eighteen hundred and thirty-one, shall be deemed and taken as the line west from the middle of Lake Michigan, in north latitude forty two degrees, thirty minutes, to the middle of the Mississippi river, as defined in the act of Congress entitled "An act to enable the people of Illinois Territory to*

form a constitution and State Government, and for the admission of such States into the Union on an equal footing with the original States," approved eighteenth of April, eighteen hundred and eighteen, and shall be and forever remain the northern boundary line of said State. Passed the Senate January 7, 1835.

Attest: WALTER LOWRIE, Secretary.

## BEQUEST OF JAMES SMITHSON.

Message from the President of the United States, in relation to the bequest to the United States by James Smithson, of London, for founding at Washington an establishment, to be styled "The Smithsonian institution for the increase and diffusion of knowledge among men."

Washington, December 17, 1835 To the Senate and house of representatives of the United States.

I transmit to congress a report from the secretary of state, accompanying copies of certain papers relating to a bequest to the United States, by Mr. Smithson, of London, for the purpose of founding, at Washington, an establishment under the name of the Smithsonian institution, "for the increase and diffusion of knowledge among men." The executive having no authority to take any step for accepting the trust, and obtaining the funds, the papers are communicated with a view to such measures as congress may deem necessary.

ANDREW JACKSON.

Department of state, Washington, December 16 1835.

The secretary of state has the honor to submit to the president the copy of a recent correspondence, to regard a bequest made to the United States for the purpose of founding, at Washington, an institution "for the increase and diffusion of knowledge among men;" and at the same time, respectfully suggest the propriety of laying these papers before congress, with a view to the adoption of such measures on their part, as the nature of the subject may seem to require.

JOHN FORSYTH.

To the president of the United States.

### [EXTRACT.]

Legation of the United States, London, July 28 1835.

SIR: The papers which I have the honor herewith to communicate to you, will acquaint you with the particulars of a bequest of property to a large amount, left to the United States for founding at Washington, an institution "for the increase and diffusion of knowledge among men." \* \* \* The letter of Messrs. Clarke, Fynmore and Fladgate, the solicitors, by whom I was apprized of the existence of the will together with the inquiries I have made, leave no doubt of its having been established, and its disposition recognized, by the court of chancery, the first legatee under its having, for several years, and to the time of his death; received the income of the property, which is stated to have amounted to upwards of \$4,000 per annum.

According to the view taken of the case by the solicitors, it is now for the United States, in the event of their accepting the bequest, and the trust coupled with it, to come forward, by their representative, and make themselves parties to an amicable suit before the lord chancellor, for purpose of legally establishing the fact of the demise of the first legatee without children and intestate;—prove their claim to the benefit of the will, and obtain a decree in chancery, awarding them the proceeds of the estate.

Messrs. Clarke, Fynmore, and Fladgate, are willing to undertake the management of the suit on the part of the United States; and from what I have learnt of their standing, may safely be confided in. Not being acquainted with the exact structure of our institutions, they are not able to point out the exact manner in which the United States should be represented in the contemplated suit, but they believe that their diplomatic agent here, if constituted for that purpose the legal representative of the president, would be recognized by the court of chancery as a proper organ of the United States, for all the purposes of the will.

Should it be thought unnecessary to await the action of congress to authorize the institution of the requisite legal proceedings and should the court suggested by the solicitors meet the views of the president, his power of attorney, authorizing the diplomatic agent here to act in his name, will, I apprehend, be necessary; and as the suit will involve some expense not connected with the contingent fund of the legation, your instructions upon this branch of the subject will likewise be desirable.

I am sir, with great respect, your obedient servant,

A. VAIL. John Forsyth Esq. secretary of state of the U. S. Washington,

I, James Smithson, son of Hugh, first duke of Northumberland, and Elizabeth, heiress of the Hungerfords Audley, and niece of Charles the proud duke of Somerset, now residing in Bentineck street, Cavendish square, do this 23d day of October, 1826, make this my last will and testament.

I bequeath the whole of my property, of every nature and kind soever to my bankers, Messrs. Drummonds, of Charing Cross, in trust, to be disposed of in the following manner, and desire of my said executors to put my property under the management of the court of chancery.

To John Fitall, formerly my servant but now employed in the London docks, and residing at No. 27. Jubilee place, North Mile End, Old Town in consideration of his attachment and fidelity to me, and the long and great care he has taken of my effects, and my having done but very little for him, I give and bequeath the annuity or annual sum of £100 sterling for his life, to be paid to him quarterly, free from legacy duty and all other deductions, the first payment to be made to him at the expiration of three months after my death. I have at divers times lent sums of money to Henry Honori Juilly, formerly my servant, but now keeping the Hungerford hotel, in the Rue Caumartin, at Paris, and for which sums of money I have undated bill or bonds signed by him. Now I will and direct that if he desires it, these sums of money be let remain in his hands at an interest of five per cent. for five years after the date of the present will.

To Henry James Hungerford, my nephew, heretofore called Henry James Dickerson, son of my late brother, lieutenant. col. Henry Louis Dickerson now residing with Mr. Auburn, at Bourg la Reine, near Paris, I give and bequeath for his life the whole of the income arising from my property of every nature and kind whatever, after the payment of the above annuity and after the death of John Fitall, that annuity, likewise the payments to be at the time the interest or dividends become due on the stocks or other.

Should the said Henry James Hungerford have a child or children legitimate or illegitimate, I leave to such child or children, his or their heirs, executors and assigns, after the death of his, her or their father, the whole of his, her or their father, the whole of my property of every kind absolutely and forever, to be divided between them, if there is more than one in the manner their father shall judge proper, and in case of his omitting to decide this, as the lord chancellor shall judge proper.

Should my said nephew, Henry James Hungerford marry, I empower him to make a jointure.

In case of the death of my said nephew without leaving a child or children or of the death of the child or children he may have had, under the age of twenty one years, or intestate, I then bequeath the whole of my property, subject to the annuity of £100 to John Fitall, and for the security and payment of which, I mean stock to remain in this country, to the United States of America, to found at Washington, under the name of the Smithsonian institution, an establishment for the increase and diffusion of knowledge among men.

I think it proper to state here that all the money which will be standing in the French five per cent. at my death, in the names of the father of my above mentioned nephew, Henry James Hungerford, and all that in my name is the property of my said nephew, being what he inherited from his father, or what I have laid up for him from the savings upon his income.

JAS. SMITHSON. (L. S.)

Department of state, Washington, Sept. 16 1835.

SIR: I have the honor to acknowledge the receipt of your despatch of the twenty-eighth of July last, (No. 197,) relative to a bequest of property to a large amount left to the United States by Mr. James Smithson, for the purpose of founding at Washington an institution for the increase and diffusion of the knowledge among men; and to inform you that your letter, and the papers which accompanied it, have been submitted to the president, who has determined to lay the subject before congress at its next session. The result of its deliberations, when obtained, shall be communicated to you, with the necessary instructions.

Of the course intended to be pursued in relation to this matter, as above explained, you will take occasion to acquaint the solicitors who apprized you of the existence of Mr. Smithson's will. I am, sir, your obedient servant,

JOHN FORSYTH.

Aaron Vail, Esq. charge d'Affaires of the U. S. London.

employed engineers in boring for water in various parts of the desert between Cairo and Suez, and that they have already succeeded in discovering water in several places.—N. Y. Am.

## IMPORTANT FROM EUROPE.

By the packet ship Poland, Capt. Anthony, the N. Y. Journal of Commerce has received Paris and Havre papers both to Saturday evening November 21st, containing London dates to the evening of the 19th.

Mr Barton had not yet left Paris, tho' it is announced in the Havre Journal of the 21st, that he had taken passage on board the packet ship Albany, which was to sail on the 1st of Dec.

A French fleet under Admiral Mackaw was said to be preparing for a visit to this quarter of the world, to look after the interests of the French commerce.

A sudden change has come over the prospects of Europe, on account of some demonstrations made by the Emperor of Russia, particularly a speech which he put forth at Warsaw, a copy of which may be found below. Both the French and English papers are filled with indignation at the tone assumed by the Czar, and a war between Russia and France is represented to be by no means improbable. It is a topic even more fruitful of discussion in the French and English papers, than the America question.

The meeting of the French Chambers is postponed from the 28th December to the 12th January.

The funeral of Admiral de Rigny was celebrated on the eleventh with great pomp.

The Spanish Cortes have assembled, and their session was opened by a satisfactory speech from the Queen.

There have been no important movements in the north of Spain, though in general the cause of Don Carlos appears to be declining. Report said that Russia and its associate powers were preparing to assist him.

Galignani's Messenger of the 19th says, "We have been led into error in announcing the departure of Mr Barton, the American Charge d'Affaires. He is still in Paris. He has, however, for some time quitted the Hotel of the American Legation, and no longer transacts business in an official capacity. Mr Brent, the Consul of the United States, now signs passports, and performs the routine of business."

PARIS, Wednesday, Nov. 11.—The Messenger says:—"The Charge d'Affaires of the U. S. of America, having demanded his passports, received them yesterday morning at ten o'clock, and immediately after ordered preparations to be made for his departure on Saturday. All the papers of the Legation had before been sent off to the U. States, and persons well informed of the state of things say, that the period of the arrival of the vessel that is conveying them will determine the tone of the President's Message at the opening of Congress. If these documents arrive in time, General Jackson will throw out fire and flame against the French Government, whom it will accuse of the infraction of treaties; in the contrary case, he will merely announce to Congress that he is waiting for the answer to the note delivered by his orders to the Cabinet of the Tuileries."

PARIS, Nov. 11.—The Impartial states, that when Mr. Barton, the Charge d'Affaires of the U. States, demanded his passports, they were given to him, unaccompanied by any expression of regret at his departure, or any wishes for a more pacific tone being adopted on the part of his Government. It proves of this; since any indication of fear of the consequences of his departure would be a compromise of the national dignity. At the same time there is no fear of an immediate rupture, and a choice of a successor to the warlike Jackson will remove most of the difficulties in the way of negotiation. However it may turn out, vague apprehensions are still caused by this affair, and it is possible that business may be seriously affected by it.

PARIS, Nov. 12.—It is affirmed that a Committee of Insurance Brokers have determined, in consequence of the turn in the relations of France with the U. S., that they will sign no more *risques de guerre a l'annee* under 5 per cent. for a year's navigation. This committee is composed of the heads of several of the largest houses in the capital, who last week would not have hesitated to sign these same risks at two or at most two & a half per cent.

Nov. 15.—The Courier Francais says, that some citizens of the U. S. assure it that the President cannot grant letters of marque without permission of Congress; and that, as to issuing a declaration of non-intercourse, this also lies with the Congress, and not with the President.—The Congress, it is fully expected, will show itself worthy of its mission, and there will be no more proclamation of war made by it than a public adoption of a system of Jacksonism.

The Monitor du Commerce contains a long article on the slavery question in America, and observes that the principal difficulty consists in promoting the fusion of the white and colored races together.—It anticipates the abolition of slavery in the U. States, not without a dreadful struggle between master and slaves, and perhaps the dissolution of the Union.—The abolitionists had much better act all their efforts towards forming Banks of Indemnity, as the only proceeding that is really suited to the habits and ideas of the Americans.

## BORING FOR WATER IN THE DESERTS OF AFRICA.

By an article published in a late London paper, it appears that the Viceroy of Egypt has